



DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[223A2100DD/AAKC001030/A0A501010.999900 253G]

Rate Adjustments for Indian Irrigation Projects

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) owns or has an interest in irrigation projects located on or associated with various Indian reservations throughout the United States. We are required to establish irrigation assessment rates to recover the costs to administer, operate, maintain, and rehabilitate these projects. We are notifying you that we have adjusted the irrigation assessment rates at several of our irrigation projects and facilities to reflect current costs of administration, operation, maintenance, and rehabilitation.

DATES: The 2023 Irrigation Assessment Rates are effective on January 1, 2023.

FOR FURTHER INFORMATION CONTACT: David Fisher, Chief, Division of Water and Power, (406) 657-5985. For details about a particular BIA irrigation project, please use the tables in the **SUPPLEMENTARY INFORMATION** section to contact the BIA regional or local office where the irrigation project is located.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rate Adjustment was published in the *Federal Register* on April 1, 2022 (87 FR 19116) to propose adjustments to the irrigation assessment rates at several BIA irrigation projects. The public and interested parties were provided an opportunity to submit written comments during the 60-day period that ended May 31, 2022.

Did BIA defer or change any proposed rate increases?

No. BIA did not defer or change any proposed rate increases.

Did BIA receive any comments on the proposed irrigation assessment rate adjustments?

Yes. BIA received nine (9) written comments related to the proposed 2023 irrigation assessment rate adjustment for the Flathead Indian Irrigation Project (FIIP). Comments were received by letter and email.

What issues were of concern to the commenters?

Comments received relate specifically to the proposed 2023 irrigation assessment rate adjustment for FIIP. BIA's summary of the issues and responses are provided below.

Comment: Commenters state a general opposition to the FIIP irrigation assessment rate adjustment and BIA's methodology for determining FIIP's budget, including a specific concern that available funds from October 2021 should be depleted and the budget should not include funding for all vacant personnel positions.

Response: As noted when rates were proposed in the *Federal Register* on April 1, 2022 (87 FR 19116), BIA is required to establish irrigation assessment rates that recover the costs to administer, operate, maintain, and rehabilitate our projects. As owner of FIIP, it is BIA's responsibility to ensure adequate resources are made available to meet the requirements noted above. BIA's authority to assess rates is codified at 25 U.S.C. 381 *et seq.* and is addressed in BIA's regulations at 25 CFR part 171. *See also* 73 FR 11,028, 11,030 (February 29, 2008). Additionally, the repayment contracts between the respective irrigation districts and the Department of the Interior explicitly state that operation and maintenance (O&M) expenses "shall be paid . . . as provided . . . by rules made or to be made . . . by the Secretary of the Interior." The procedures followed by BIA in adjusting its irrigation assessment rates are consistent with applicable law and past practice, and the methodology used by BIA to determine the O&M assessment rates for FIIP is reasonable.

The proposed 2023 irrigation assessment adjustments for FIIP's basic per acre rate categories are necessary and justified due to the increased costs associated with administering, operating, maintaining, and rehabilitating FIIP. In accordance with BIA financial guidelines and 25 CFR part 171, BIA developed the FIIP budget for 2023 expenditures and income approximately two years in advance. BIA relied on financial reports generated by the Financial and Business Management System and procurement files to review past expenditures and project a future budget. The FIIP Project Manager also used his discretion to assess and anticipate upcoming financial needs and priorities. The 2023 expenses were then divided by the total assessable acres within FIIP. The \$2 per acre assessment increase for the "basic per acre—A" rate category is necessary to ensure FIIP can pay its anticipated expenses for 2023.

Following BIA policy, the FIIP Project Manager held two meetings in April 2022 with representatives of the Flathead Irrigation District, Mission Irrigation District, and Jocko Irrigation District to discuss the proposed 2023 irrigation assessment increase from \$33.50 to \$35.50 per acre. During these meetings, BIA provided details supporting the 2023 budget, justifications, and proposed O&M assessment.

Some commenters submitted a copy of FIIP's account balances as of October 2021 that did not include the account purposes or expenses. While FIIP's account balances totaled nearly \$6.3 million in October 2021, this money was allocated for specific purposes and upcoming expenses. BIA irrigation projects are required to maintain a sinking fund for heavy equipment replacement and maintenance, a reserve fund for emergencies and contingencies, and funding for environmental compliance activities; \$4.2 million of the \$6.3 million was allocated for these purposes. Approximately \$400,000 of the \$6.3 million was allocated for scheduled construction activities on FIIP's aging infrastructure. The remaining \$1.7 million of the \$6.3 million was budgeted for 2021, 2022, and 2023 O&M expenses, including: personnel, equipment

costs, acquisition costs, and materials and supplies. We believe FIIP's account balances in October 2021 were reasonable and appropriate because FIIP receives the bulk of its O&M collections twice annually, its account balance fluctuates throughout the year, and actual expenditures may vary from budgeted or estimated expenses. Although a small portion of the October 2021 available funds were intended for 2023 O&M expenses, FIIP must increase its 2023 assessment rates to avoid a deficit and ensure it has sufficient funds for the remainder of its O&M expenditures in 2023.

Regarding funding for personnel, the proposed 2023 O&M assessment does not include funding for all vacant positions. The 2023 budget includes personnel salary, benefits, and overtime for FIIP's 32 employees as well as two vacant positions. The remaining 23 vacant positions in FIIP's organizational chart are not accounted for in the 2023 budget.

Comment: Two commenters state the quality of irrigation service and water flow need to improve before assessments are increased.

Response: FIIP provides irrigation service commensurate with its resources which means the \$2 per acre assessment increase is needed to improve the project's quality of service. The increased revenue will allow FIIP to fill two vacant personnel positions—one hydrologist and one civil engineer. The quality of irrigation service will improve as funding becomes available to fill additional personnel positions, while also retaining and increasing experience levels of existing FIIP staff. FIIP is actively working with the BIA Northwest Region and BIA human resources offices to fill its vacant personnel positions subject to available funding.

The FIIP rate adjustment is also needed to maintain the project's existing quality of service and assure its water delivery obligations are satisfied. Many O&M expenses are not consistent from year to year or under BIA's control, including the costs of existing personnel, pumping, materials and supplies, and repairs. Federal personnel

expenses require the use of local area pay tables for General Schedule and Federal Wage System employees, maintained and managed by the Office of Personnel Management, and factor in the annual cost of living increases, annual wage board estimates, and annual overtime estimates. Power expenses for pumping are weather dependent and vary widely from year to year. And the costs of materials, supplies, and repairs are subject to depreciation and inflation.

Comment: One commenter recommends using the Confederated Salish and Kootenai Tribes' water settlement funds to pay for O&M instead of increasing assessment rates.

Response: The Montana Water Rights Protection Act (Consolidated Appropriations Act of 2021, Division DD, Pub. L. No. 116-260, 134 stat. 1182) authorized funds to implement the Act as well as the water rights compact entered into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States. The Act authorizes the use of appropriated funds for certain activities, including certain rehabilitation, modernization, mitigation, reclamation, and restoration activities set forth in section 7 of the Act. The Act does not, however, authorize the use of those funds for O&M costs of FIIP.

Does this notice affect me?

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation projects or if you have a carriage agreement with one of our irrigation projects.

Where can I get information on the regulatory and legal citations in this notice?

You can contact the appropriate office(s) stated in the tables for the irrigation project that serves you, or you can use the Internet site for the Government Publishing Office at www.gpo.gov.

What authorizes you to issue this notice?

Our authority to issue this notice is vested in the Secretary of the Interior (Secretary) by 5 U.S.C. 301 and the Act of August 14, 1914 (38 stat. 583; 25 U.S.C. 385).

The Secretary has in turn delegated this authority to the Assistant Secretary – Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior’s Departmental Manual.

Whom can I contact for further information?

The following tables are the regional and project/agency contacts for our irrigation facilities.

Northwest Region Contacts	
Bryan Mercier, Regional Director Bureau of Indian Affairs, Northwest Regional Office 911 NE 11th Avenue Portland, OR 97232-4169 Telephone: (503) 231-6702	
Project Name	Project/Agency Contacts
Flathead Indian Irrigation Project	Larry Nelson, Acting Irrigation Project Manager 220 Project Drive St. Ignatius, MT 59865 Telephone: (406) 745-2661
Fort Hall Irrigation Project	David Bollinger, Irrigation Project Manager 36 Bannock Avenue Fort Hall, ID 83203-0220 Telephone: (208) 238-1992
Wapato Irrigation Project	Pete Plant, Project Administrator 413 South Camas Avenue Wapato, WA 98951-0220 Telephone: (509) 877-3155

Rocky Mountain Region Contacts	
Susan Messerly, Regional Director Bureau of Indian Affairs, Rocky Mountain Regional Office 2021 4th Avenue North Billings, MT 59101 Telephone: (406) 247-7943	
Project Name	Project/Agency Contacts
Blackfeet Irrigation Project	Kenneth Bird, Acting Superintendent Greg Tatsey, Irrigation Project Manager

	P.O. Box 880 Browning, MT 59417 Telephones: (406) 338-7544 Superintendent (406) 338-7519 Irrigation Project Manager
Crow Irrigation Project	Clifford Serawop, Superintendent Jim Gappa, Acting Irrigation Project Manager (BIA) (Project O&M performed by Water Users Association) P.O. Box 69 Crow Agency, MT 59022 Telephones: (406) 638-2672 Superintendent (406) 247-7998 Acting Irrigation Project Manager
Fort Belknap Irrigation Project	Mark Azure, Superintendent Jim Gappa, Acting Irrigation Project Manager (BIA) (Project O&M contracted to Tribes under PL 93-638) 158 Tribal Way, Suite B Harlem, MT 59526 Telephone: (406) 353-2901 Superintendent (406) 353-8454 Irrigation Project Manager (Tribal Office)
Fort Peck Irrigation Project	Anna Eder, Superintendent Jim Gappa, Acting Irrigation Project Manager (BIA) (Project O&M performed by Fort Peck Water Users Association) P.O. Box 637 Poplar, MT 59255 Telephones: (406) 768-5312 Superintendent (406) 247-7998 Acting Irrigation Project Manager (406) 653-1752 Lead ISO – Huber Wright
Wind River Irrigation Project	Leslie Shakespeare, Superintendent Jim Gappa, Acting Irrigation Project Manager (BIA) (Project O&M for Little Wind, Johnstown, and Lefthand Units contracted to Tribes under PL 93-638; Little Wind-Ray and Upper Wind Units O&M performed by Ray Canal, A Canal, and Crowheart Water Users Associations) P.O. Box 158 Fort Washakie, WY 82514 Telephones: (307) 332-7810 Superintendent (406) 247-7998 Acting Irrigation Project Manager

Southwest Region Contacts	
Patricia L. Mattingly, Regional Director Bureau of Indian Affairs, Southwest Regional Office 1001 Indian School Road, NW Albuquerque, NM 87104 Telephone: (505) 563-3100	
Project Name	Project/Agency Contacts
Pine River Irrigation Project	Priscilla Bancroft, Superintendent Vickie Begay, Irrigation Project Manager P.O. Box 315 Ignacio, CO 81137-0315 Telephones: (970) 563-4511 Superintendent (970) 563-9484 Irrigation Project Manager

Western Region Contacts	
Jessie Durham, Acting Regional Director Bureau of Indian Affairs, Western Regional Office 2600 North Central Avenue 4th Floor Mailroom Phoenix, AZ 85004 Telephone: (602) 379-6600	
Project Name	Project/Agency Contacts
Colorado River Irrigation Project	Davetta Ameelyenah, Superintendent Gary Colvin, Irrigation Project Manager 12124 1st Avenue Parker, AZ 85344 Telephones: (928) 669-7111 Superintendent (928) 662-4392 Irrigation Project Manager
Duck Valley Irrigation Project	Joseph McDade, Superintendent (Project O&M compacted to Shoshone-Paiute Tribes under PL 93-638) 2719 Argent Avenue, Suite 4, Gateway Plaza Elko, NV 89801 Telephones: (775) 738-5165 Superintendent (208) 759-3100 Tribal Office
Yuma Project, Indian Unit	Denni Shields, Superintendent (Bureau of Reclamation (BOR) owns the Project and is responsible for O&M) 256 South Second Avenue, Suite D Yuma, AZ 85364 Telephones: (928) 782-1202 Superintendent (928) 343-8100 BOR Area Office Manager
San Carlos Irrigation Project (Indian Works and Joint Works)	Ferris Begay, Project Manager (BIA) Clarence Begay, Supervisory Civil Engineer (BIA) (Portions of Indian Works O&M compacted to Gila River Indian Community under PL 93-638) 13805 North Arizona Boulevard Coolidge, AZ 85128 Telephones: (520) 723-6225 Project Manager (520) 723-6203 Acting Supervisory Civil Engineer (520) 562-6720 Gila River Indian Irrigation & Drainage District
Uintah Irrigation Project	Antonio Pingree, Superintendent Ken Asay, Irrigation System Manager (BIA) (Project O&M performed by Uintah Indian Irrigation Project Operation and Maintenance Company) P.O. Box 130 Fort Duchesne, UT 84026 Telephones: (435) 722-4300 Superintendent (435) 722-4344 Irrigation System Manager (435) 724-5200 Uintah Indian Irrigation Operation and Maintenance Company
Walker River Irrigation Project	Rachael Larson, Superintendent 311 East Washington Street Carson City, NV 89701 Telephone: (775) 887-3501

What irrigation assessments or charges are adjusted by this notice?

The rate table below contains final rates for the 2022 and 2023 calendar years for

all irrigation projects where we recover costs of administering, operating, maintaining, and rehabilitating them. An asterisk immediately following the rate category notes the irrigation projects where 2022 rates are different from the 2023 rates.

Northwest Region Rate Table			
Project Name	Rate Category	Final 2022 Rate	Final 2023 Rate
Flathead Irrigation Project	Basic per acre – A *	\$33.50	\$35.50
	Basic per acre – B *	\$16.75	\$17.75
	Minimum Charge per tract	\$75.00	\$75.00
Fort Hall Irrigation Project	Basic per acre *	\$62.50	\$64.50
	Minimum Charge per tract *	\$40.00	\$41.00
Fort Hall Irrigation Project – Minor Units	Basic per acre *	\$41.00	\$45.00
	Minimum Charge per tract *	\$40.00	\$41.00
Fort Hall Irrigation Project – Michaud Unit	Basic per acre *	\$68.50	\$73.50
	Pressure per acre *	\$106.50	\$114.00
	Minimum Charge per tract *	\$40.00	\$41.00
Wapato Irrigation Project – Toppenish/Simcoe Units	Minimum Charge per bill	\$25.00	\$25.00
	Basic per acre	\$25.00	\$25.00
Wapato Irrigation Project – Ahtanum Units	Minimum Charge per bill	\$30.00	\$30.00
	Basic per acre	\$30.00	\$30.00
Wapato Irrigation Project – Satus Unit	Minimum Charge per bill	\$79.00	\$79.00
	“A” Basic per acre	\$79.00	\$79.00
	“B” Basic per acre	\$85.00	\$85.00
Wapato Irrigation Project – Additional Works	Minimum Charge per bill	\$80.00	\$80.00
	Basic per acre	\$80.00	\$80.00
Wapato Irrigation Project – Water Rental	Minimum Charge per bill *	\$86.00	\$90.00
	Basic per acre *	\$86.00	\$90.00

Rocky Mountain Region Rate Table			
Project Name	Rate Category	Final 2022 Rate	Final 2023 Rate
Blackfeet Irrigation Project	Basic-per acre	\$20.50	\$20.50

Crow Irrigation Project – Willow Creek O&M (includes Agency, Lodge Grass #1, Lodge Grass #2, Reno, Upper Little Horn, and Forty Mile Units)	Basic-per acre *	\$28.50	\$29.00
Crow Irrigation Project – All Others (includes Bighorn, Soap Creek, and Pryor Units)	Basic-per acre *	\$28.50	\$29.00
Crow Irrigation Project - Two Leggins Unit	Basic-per acre	\$14.00	\$14.00
Crow Irrigation Two Leggins Drainage District	Basic-per acre	\$2.00	\$2.00
Fort Belknap Irrigation Project	Basic-per acre *	\$18.00	\$19.00
Fort Peck Irrigation Project	Basic-per acre *	\$27.00	\$28.00
Wind River Irrigation Project – Units 2, 3 and 4	Basic-per acre	\$25.00	\$25.00
Wind River Irrigation Project – Unit 6	Basic-per acre	\$22.00	\$22.00
Wind River Irrigation Project – LeClair District (See Note #1)	Basic-per acre	\$47.00	\$47.00
Wind River Irrigation Project – Crow Heart Unit	Basic-per acre	\$16.50	\$16.50
Wind River Irrigation Project – A Canal Unit	Basic-per acre	\$16.50	\$16.50
Wind River Irrigation Project – Riverton Valley Irrigation District (See Note #1)	Basic-per acre	\$30.65	\$30.65

Southwest Region Rate Table			
Project Name	Rate Category	Final 2022 Rate	Final 2023 Rate
Pine River Irrigation Project	Minimum Charge per tract *	\$50.00	\$75.00
	Basic-per acre *	\$22.50	\$23.00

Western Region Rate Table			
Project Name	Rate Category	Final 2022 Rate	Final 2023 Rate
Colorado River Irrigation Project	Basic per acre up to 5.75 acre-feet	\$64.00	\$64.00
	Excess Water per acre-foot over 5.75 acre-feet	\$18.00	\$18.00
Duck Valley Irrigation Project	Basic per acre	\$5.30	\$5.30
Yuma Project, Indian Unit	Basic per acre up to 5.0 acre-feet	\$157.00	(+)

(See Note #2)	Excess Water per acre-foot over 5.0 acre-feet	\$30.00	(+)
	Basic per acre up to 5.0 acre-feet (Ranch 5)	\$157.00	(+)

Project Name	Rate Category		Final 2022 Rate	Final 2023 Rate
San Carlos Irrigation Project (Joint Works) (See Note #3)	Basic per acre		\$26.00	\$26.00
	2023 Construction Water Rate Schedule:			
		Off Project Construction	On Project Construction – Gravity Water	On Project Construction – Pump Water
	Administrative Fee	\$300.00	\$300.00	\$300.00
	Usage Fee	\$250.00 per month	No Fee	\$100.00 per acre foot
	Excess Water Rate †	\$5.00 per 1,000 gal.	No Charge	No Charge

Project Name	Rate Category		Final 2022 Rate	Final 2023 Rate
San Carlos Irrigation Project (Indian Works) (See Note #4)	Basic per acre *		\$90.50	\$99.44
Uintah Irrigation Project	Basic per acre		\$23.00	\$23.00
	Minimum Bill		\$25.00	\$25.00
Walker River Irrigation Project	Basic per acre		\$31.00	\$31.00

*	Notes irrigation projects where rates are adjusted.
+	These rates have not yet been determined.
†	The excess water rate applies to all water used in excess of 50,000 gallons in any one month.
Note #1	O&M rates for LeClair and Riverton Valley Irrigation Districts apply to Trust lands that are serviced by each irrigation district. The annual O&M rates are based on budgets submitted by LeClair and Riverton Valley Irrigation Districts, respectively.
Note #2	The O&M rate for the Yuma Project, Indian Unit has two components. The first component of the O&M rate is established by the Bureau of Reclamation (BOR), the owner and operator of the Project. BOR's rate, which is based upon the annual budget submitted by BOR is \$153.00 for 2022 but has not been established for 2023. The second component of the O&M rate is established by BIA to cover administrative costs, which includes billing and collections for the Project. The 2022 BIA rate component is \$4.00/acre. The final 2023 BIA rate component is \$4.00/acre.
Note #3	The Construction Water Rate Schedule identifies fees assessed for use of irrigation water for non-irrigation purposes.

Note #4	The O&M rate for the San Carlos Irrigation Project—Indian Works has three components. The first component is established by BIA San Carlos Irrigation Project—Indian Works, the owner and operator of the Project; the 2022 rate is \$56.50 per acre, and the final 2023 rate is \$56.50 per acre. The second component is established by BIA San Carlos Irrigation Project—Joint Works; the 2022 rate is \$26.00 per acre, and the final 2023 rate is \$26.00 per acre. The third component is established by the San Carlos Irrigation Project Joint Control Board (comprised of representatives from the Gila River Indian Community and the San Carlos Irrigation and Drainage District); the 2022 rate is \$8.00 per acre, and 2023 rate is \$16.94 per acre.
---------	--

Consultation and Coordination with Tribal Governments (Executive Order 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this notice under the Department’s consultation policy and under the criteria of Executive Order 13175 and have determined there to be substantial direct effects on federally recognized Tribes because the irrigation projects are located on or associated with Indian reservations. To fulfill its consultation responsibility to Tribes and Tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by project, agency, and regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust irrigation assessment rates.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

These rate adjustments are not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Regulatory Planning and Review (Executive Order 12866)

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

These rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish “a rule of particular applicability relating to rates.” 5 U.S.C. 601(2).

Unfunded Mandates Reform Act of 1995

These rate adjustments do not impose an unfunded mandate on state, local, or Tribal governments in the aggregate, or on the private sector, of more than \$130 million per year. They do not have a significant or unique effect on State, local, or Tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Takings (Executive Order 12630)

These rate adjustments do not affect a taking of private property or otherwise have “takings” implications under Executive Order 12630. The rate adjustments do not deprive the public, State, or local governments of rights or property.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, these rate adjustments do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This notice complies with the requirements of Executive Order 12988. Specifically, in issuing this notice, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct as required by section 3 of Executive Order 12988.

Paperwork Reduction Act of 1995

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076-0141 and expires January 31, 2023.

National Environmental Policy Act

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4370(d)), pursuant to 43 CFR 46.210(i). In addition, the rate adjustments do not present any of the 12 extraordinary circumstances listed at 43 CFR 46.215.

Bryan Newland,

Assistant Secretary – Indian Affairs.

[FR Doc. 2022-16324 Filed: 7/28/2022 8:45 am; Publication Date: 7/29/2022]